

**DURHAM, NORTH CAROLINA
MONDAY, JUNE 19, 2006
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell recognized Human Resources Director Alethea Bell who acknowledged Johnny Dwiggin of the Employer Support for the Guard and Reserve who made comments on the Statement of Support for the Guard and Reserve that was signed by Mayor Bell.

The members of the City Council made comments on various community events they attended recently.

Council Member Brown asked the administration to provide a report on positive actions to address crime issues in the East Durham Neighborhood (Holloway Street) at a Work Session.

City Manager Baker noted Police Chief Chalmers may be able to address this issue during his 1st Quarter Crime Report presentation and if not, staff will provide a report at the July 20, 2006 City Council Work Session.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker requested that Consent Agenda #29 [Piggy-Back Purchase – One 60' Traffic Signal Aerial Device Body] and GBA #32 [Proposed Condemnation of Property of Edna Barbee for a Sanitary Sewer Easement and Temporary Construction Easements to Serve Windsor Commons Townhomes] be referred back to the administration, Relative to Item #49 [2006-07 Benefits Recommendation], the City Manager requested that this item be added to the Consent Agenda since it was disposed of at the Work Session and there is a motion for Council to approve benefits for City employees and retirees to become effective September 1, 2006, asked that GBA Item 70 [First Quarter 2006 Crime Report] be heard at the beginning of the meeting and made comments on Supplemental Agenda Items 75-80. Finally, at the request of Council Member Clement, the City Manager addressed some of the issues regarding lead found in the City's water and pipes in certain residences in Southern Durham. He made comments on the pipes installed prior to 1985 that have lead fittings and the test that was performed on the water system that did not detect any lead in the system, but there are issues where the water gets into a home that has a lead pipe and highlighted recommendations that have been made for those

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individuals which is outlined in the condensed 2005 Water Quality Report that is available on-line.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the City Manager's priority items was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney.

City Clerk Gray informed Council that a valid protest petition has been filed against GBA #58 [Zoning Map Change - Harmony Road II [Z05-32]].

Mayor Pro Tempore Cole-McFadden recognized youth from the West End who have graduated from high school and attending college. Also, she recognized Mitchell Langley a graduate of Northern High School and AT&T State University in 2006 majoring in marketing and acknowledged that Warren Langley a graduate of Jordan High School is a rising senior at Hampton University who inspired Council to establish a Youth Council. Also, she recognized high school graduates who will be attending college who were not in attendance. In addition, she recognized newly-elected school board member Rev. Frederick Davis.

At this time during the meeting, GBA #70 was heard.

[GENERAL BUSINESS AGENDA]

SUBJECT: FIRST QUARTER 2006 CRIME REPORT

To receive a presentation on the First Quarter 2006 Crime Report.

Police Chief Steve Chalmers gave a power point presentation on the first quarter 2006 Crime report highlighting: 1st quarter 2006 significant facts, four-year crime statistics, sworn and non-sworn staffing; all index crimes, violent crimes, property crimes, murder, homicide comparison, rape, robbery aggravated assault, breaking and entering; larceny, auto theft, percent of cases cleared and the following Summary of the 2006 First Quarter Report: The number of reported crimes dropped in two out of the seven categories—murders and larcenies – during the first quarter of 2006 compared to the first three months of 2005. The number of murders was the lowest first quarter total in 10 years. Violent crime, property crime and index crime all increased during the first quarter of 2006. The Clearance rates for violent crimes, property crimes and index crimes decreased during the first quarter of 2006. The number of reported murders and larcenies reach four-year lows for the first three months of 2006. The number of reported rapes and motor vehicle thefts reach four-year first quarter highs. The clearance rates for all index crime categories during the first quarter were higher than the 2004 FBI average for cities 100,000 – 250,000 (the most recent FBI figures)—handout provided.

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Mayor Bell made comments on the homicide comparison as of May 30, 2006, the change in black on black homicides and illegal guns. He noted the City is moving in the right direction as it relate to changes in these areas.

Mayor Pro Tempore Cole-McFadden asked staff to provide crime stats from North Carolina Central University and Duke University.

Council Member Brown made comments on the murder information [January – May 2006]. He asked the Chief to comment on the issue on Holloway Street.

Police Chief Chalmers updated Council on the article concerning Holloway Street in East Durham. He identified what has been going on in this particular area and the type of response to address issues. He made comments on three different developments [Bobby Robert Associates, Rochelle Manor and another location on Junction Road] contributing to the some of the issues going on in the community. He noted staff is working with a property manager who was appointed recently, identified several of the individuals who have been involved and responsible for the criminal activity in the area and several have been arrested, commented on property owners and the gang unit has been actively working in this area. Chief Chalmers noted the administration will start to work closely with the residents in that area to develop stronger citizens programs.

At the request of Council Member Brown, Chief Chalmers gave an update on the quadruple homicide that took place last year. He noted the investigative team working on this case is tying up loose ends and gathering final information/evidence that staff needs in this case. He stated this case will be cleared.

Note: No action was taken by Council on this item.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item #74 [Durham Area Transit Authority Board Appointment] was pulled.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Catotti to approve City Council minutes for the following meetings; and

May 1, 2006 - Regular Meeting

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May 15, 2006 - Regular Meeting

To approve City Council action taken at the May 18, 2006 City Council Work Session was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: RECREATION ADVISORY COMMISSION – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Recreation Advisory Commission with a term to expire on August 8, 2008 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Passenger Vehicle For Hire Commission representing Handicap with a term to expire on January 1, 2009 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies on the Human Relations Commission for one (1) Non-minority male and (1) Minority Male with terms expiring on June 30, 2009 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Citizens Advisory Committee with the term expiring on June 30, 2009 was approved at 7:58 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT - APRIL 2006

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of April 2006 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

May 25, 2006

MEMO TO: Patrick Baker, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report – April 2006

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of April 2006.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Two Year Water Monitoring Program for Water Management
- Purpose of Bid: This program is for Lake Michie, Eno and Little River locations.
- Comments: This is a Federal mandated program to analyze drinking source water.
- Opened: March 8, 2006
- Bidders:

Analytical Services, Inc.	*\$29,082.00
Williston, VT	
Environmental Associates Ltd	\$32,606.68
Ithaca, NY	
Scientific Methods	\$40,488.00
Granger, IN	

*Awarded based on: X Low Bid X Other (See Comments)

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WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	17		# Black Males	0	0%
Total # Females	10	59%	# White Males	7	41%
Total # Males	7	41%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	9	53%
			# Other Females	1	6%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: Traffic Signal Heads and Accessories

Purpose of Bid: To provide the Transportation Division with Traffic Signal Heads and Accessories

Comments:

Opened: March 9, 2006

Bidders:	RAI Products	* \$38,132.50
	Charlotte, NC	
	Atlantic Technical Sales	\$40,250.00
	Chantilly, VA	
	RGA, Inc.	\$43,650.00
	Powhatan, VA	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	3		# Black Males	0	0%
Total # Females	2	67%	# White Males	1	33%
Total # Males	1	33%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	67%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Boiler Replacement at the Armory

Purpose of Bid: To replace the defective boiler at the Armory

Comments:

June 19, 2006

Opened: March 9, 2006

Bidders:	Comfort Engineers	* \$70,730.00
	Durham, NC	
	Boiler Masters, Inc.	\$84,000.00
	Greensboro, NC	
	Southern Piping Company	\$89,285.00
	Raleigh, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	153		# Black Males	32	21%
Total # Females	11	7%	# White Males	102	67%
Total # Males	142	93%	# Other Males	8	5%
			# Black Females	1	1%
			# White Females	10	6%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Forensic Evidence Cabinets

Purpose of Bid: To purchase two (2) forensic evidence cabinets for the Police/Forensic Unit

Comments: The monies being used is from the Federal Asset Forfeiture Funds.

Opened: March 9, 2006

Bidders:	National Graphic Supply	*\$18,980.00
	Albany, NY	
	Penn Camera	\$21,869.00
	Beltsville, MD	
	MISONIX, Inc.	\$23,407.50
	Farmingdale, NY	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

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Total Workforce	48		# Black Males	0	0%
Total # Females	20	41.7%	# White Males	27	57%
Total # Males	28	58.3%	# Other Males	1	1.3%
			# Black Females	0	0%
			# White Females	20	41.7%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: One (1) Service Truck

Purpose of Bid: To provide the Street Maintenance Division with a heavy duty service truck.

Comments:

Opened: March 13, 2006

Bidders:	Capital Ford of Wilmington	* \$43,077.00
	Wilmington, NC	
	University Ford	\$43,741.00
	Durham, NC	
	TranSource, Inc.	\$47,928.00
	Raleigh, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	118		# Black Males	9	8%
Total # Females	15	12%	# White Males	94	80%
Total # Males	103	88%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	15	12%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Heavy Duty Welding Service Body

Purpose of Bid: To provide the Water & Sewer Maintenance Division with a service body.

Comments:

June 19, 2006

Opened: March 22, 2006

Bidders: Ford Body Company, Inc. *\$24,210.00
Greensboro, NC
Cook Truck Equipment & Tools, Inc. \$24,599.00
Charlotte, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	24		# Black Males	2	8%
Total # Females	2	8%	# White Males	14	59%
Total # Males	22	92%	# Other Males	6	25%
			# Black Females	0	0%
			# White Females	2	8%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

7. Bid: Heavy Duty Welding Service Body

Purpose of Bid: To provide the Fleet Maintenance Division with a service body for their welding truck.

Comments:

Opened: March 22, 2006

Bidders: Cook Truck Equipment & Tools, Inc. * \$53,661.00
Charlotte, NC
West Georgia Mobile Hydraulic \$60,787.00
Villa Rica, GA

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	45		# Black Males	2	4%
Total # Females	2	4%	# White Males	35	78%
Total # Males	43	96%	# Other Males	6	14%
			# Black Females	0	0%

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# White Females	2	4%
# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

8. Bid: Two (2) Service Trucks with cranes

Purpose of Bid: To provide the Street Maintenance & Fleet Maintenance Divisions with new service trucks

Comments:

Opened: March 24, 2006

Bidders:	University Ford	* \$94,510.00
	Durham, NC	
	Capital Ford of Wilmington	\$94,932.00
	Wilmington, NC	
	TranSource, Inc.	\$103,834.00
	Raleigh, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	201		# Black Males	19	10%
Total # Females	26	13%	# White Males	153	76%
Total # Males	175	87%	# Other Males	3	1%
			# Black Females	2	1%
			# White Females	24	12%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

9. Bid: 200kW Diesel Generator

Purpose of Bid: To provide the General Services Department with a diesel generator for City Hall

Comments:

Opened: March 27, 2006

Bidders:	Gregory Poole Power Systems	* \$45,500.00
	Raleigh, NC	

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Nixon Power Services Company	\$45,992.00
Charlotte, NC	
Storage Battery Systems, Inc.	\$48,673.00
Menomonee Falls, WI	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	817		# Black Males	52	6%
Total # Females	94	12%	# White Males	646	79%
Total # Males	723	88%	# Other Males	25	3%
			# Black Females	8	1%
			# White Females	84	10%
			# Other Females	2	1%

The SDBE Data Base was used in the solicitation of bids for this item.

10. Bid: Printing and Fulfillment for the Annual Water Quality Report

Purpose of Bid: To print and distribute the annual Water Quality Report for the Water Management Department.

Comments:

Opened: April 6, 2006

Bidders:	Color Q	* \$15,300.00
	Dayton, OH	
	Theo Davis Printing	\$20,348.00
	Zebulon, NC	
	Cary Printing	\$20,482.02
	Cary, NC	
	Sir Speedy Printing	\$23,340.00
	Durham, NC	
	Progressive Business Solutions	\$24,821.00
	Raleigh, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	29		# Black Males	1	3%
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Total # Females	11	37%	# White Males	17	60%
Total # Males	18	63%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	10	34%
			# Other Females	1	3%

The SDBE Data Base was used in the solicitation of bids for this item.

11. Bid: Perkin Elmer Annual Service Plan for Laboratory Equipment at SDWRF

Purpose of Bid: This maintenance service is for the South Durham WRF laboratory equipment.

Comments: Perkin Elmer is the sole source for parts, sales and service of Perkin Elmer equipment.

Opened: April 17, 2006

Bidders: Perkin Elmer Instruments *\$21,528.00
Norwalk, CT

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	941		# Black Males	32	3%
Total # Females	197	20%	# White Males	635	67%
Total # Males	744	80%	# Other Males	77	8%
			# Black Females	26	3%
			# White Females	137	15%
			# Other Females	34	4%

The SDBE Data Base was used in the solicitation of bids for this item.

12. Bid: PocketJet II Printers with cable

Purpose of Bid: To purchase PocketJet II Printers for the Police Department

Comments: 56 computers @ \$329.48 each

Opened: April 19, 2006

Bidders: USAT *\$18,450.88

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Chapel Hill, NC
Optics For You
Los Angeles, CA

\$18,869.20

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	4		# Black Males	0	0%
Total # Females	2	50%	# White Males	2	50%
Total # Males	2	50%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	50%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

SUBJECT: BID REPORT - MAY 2006

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of May 2006 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

May 25, 2006

MEMO TO: Patrick Baker, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report – May 2006

To receive a report and to record into the minutes bids which were acted upon by the City

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Manager during the month of May 2006.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid:** **60' Traffic Signal Aerial Device**

Purpose of Bid: To provide the Transportation Division with a Traffic Signal truck

Comments: This item has been bid twice and each time we only received one bid.

Opened: May 4, 2006

Bidders: Altec Industries, Inc. *\$92,581.00
Creedmoor, NC

*Awarded based on: ____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2796		# Black Males	86	32%
Total # Females	26	10%	# White Males	148	55%
Total # Males	243	90%	# Other Males	9	3%
			# Black Females	9	3%
			# White Females	17	7%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

2. **Bid:** **120' Soft Copper Tubing**

Purpose of Bid: To provide the Water & Sewer Maintenance division with soft copper tubing.

Comments:

Opened: May 11, 2006

Bidders: National Waterworks/Raleigh *\$11,082.00
Morrisville, NC
Pipeline Supply Co., Inc. \$12,011.82
Raleigh, NC
Ferguson Raleigh Waterworks \$13,963.50
Apex, NC
TEC Utilities Supply, Inc. \$14,618.34
Garner, NC

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*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	18		# Black Males	3	16%
Total # Females	1	06%	# White Males	14	78%
Total # Males	17	94%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	6%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

**SUBJECT: PIGGYBACK PURCHASE – TWO CLOSED CIRCUIT TV SEWER
INSPECTION VANS - ENVIRON-CLEAN EQUIPMENT, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Environ-Clean Equipment, Inc., in the amount of \$292,280, for providing the City with two Closed Circuit TV Sewer Inspection Vans; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET ACCEPTANCE – CARPENTER POINTE – PH 2 – HORTON
HILLS, SECTION 9 – PH II, III, IV**

MOTION by Council Member Stith seconded by Council Member Catotti to accept the streets on the list for maintenance by the City of Durham was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Carpenter Pointe – PH 2

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- 1) **Knothole Lane** – from the centerline of Dovetail Drive to the centerline of Mortise Court (470), and
- 2) **Mortise Court** – from the beginning of Phase 2 construction @ STA 14+65.87 south thru the cul-de-sac (465’.)

Horton Hills, Section 9 – PH II, III, IV

- 1) **Woodgreen Drive** – from the centerline of Stadium Drive east thru the cul-de-sac (1,401’), and
- 2) **Maple Ridge Drive** – from the centerline of Woodgreen Drive south to the end of PH II construction (513’), and
- 3) **Stadium Drive** – from the beginning of construction @ STA 9+50 north past Woodgreen to the end of construction @ STA 7+01.08 (249’), and
- 4) **Moorgate Avenue** – from the centerline of Woodgreen Drive to the centerline of Woodside Park Lane (511’), and
- 5) **Northwood Hills Avenue** – from the centerline of Maple Ridge Drive west to the end of construction (125’), and
- 6) **Woodside Park Lane** – from the centerline of Woodgreen Drive north then east to the end of construction @ STA 21+20 (1,120’), and
- 7) **Burnt Oak Lane** – from the centerline of Woodside Park Lane north to the end of construction @ STA 11+39.74 (140’.)

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH ORLEANS HOME BUILDERS - FIELDMIST SUBDIVISION

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a Water & Sewer Extension Agreement with Orleans Home Builders to serve Fieldmist Subdivision was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT WITH TOLL BROTHERS, INC. - SIMKO PROPERTY - 2613 PAGE ROAD

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a Water Extension Agreement with Toll Brothers, Inc. to serve Simko Property - 2613 Page Road was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – IMPERIAL POINT (D05-567)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for Imperial Point, submitted by Cline Design Associates, PA, on behalf of Imperial Point LLC and Chapel Hill Restaurant Group, to construct two restaurants and one retail building with a cumulative total of 20,100 square feet on a 2.87 acre site, zoned IP and MTC (partial), with a drive-through facility associated with one of the proposed restaurants, the site is located on the north side of Page Road, west of Slater Road and east of South Miami Boulevard, PINs: 0747-02-55-2088, 0747-04-54-1941 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – BRIGHTLEAF SWIM AND TENNIS CLUB (D05-608)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for “Brightleaf Swim & Tennis Club”, submitted by Bass, Nixon and Kennedy, Inc., on behalf of Wilkison Partners Brightleaf, for an athletic facility with a 5,484 square foot clubhouse, swimming pool, tot lot, and 11 tennis courts, with 158 vehicle and eight bicycle parking spaces on an 11.64 acre site zoned PDR 3.99 and F/J-B, the property is located at 2003 Copper Leaf Parkway at the southeastern corner of Copper Leaf Way and Prospect Parkway, PINs 0850-03-21-4274 (portion) 0759-01-29-0895 (portion) was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – 1110 WEST MAIN STREET, PHASE 1 (D05-818)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for 1110 West Main Street, Phase 1, submitted by Coulter Jewell Thames, PA, on behalf of Associated Medical Affairs, to construct a office building and a commercial building with a cumulative total of 77,916 square feet on a 1.61 acre site, zoned CG, OI and DDO-3 Downtown Overlay District, the site is located on the northeast corner of North Buchanan Boulevard and West Main Street and west of Watts Street, PIN: 0821-07-69-0678; 4673; 3677; 3578 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: WORKFORCE INVESTMENT ACT CONTRACT FOR \$178,300 WITH
NORTH CAROLINA EMPLOYMENT SECURITY COMMISSION (ESC)
FOR ADULT AND DISLOCATED WORKER SERVICES**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a WIA contract with the North Carolina Employment Security Commission (ESC) in the amount of \$178,300; and

To authorize the City Manager to make changes to the contract as may be needed so long as they do not increase the contract amount nor alter the completion date of the contract was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO WORKFORCE INVESTMENT ACT YOUTH
CONTRACT WITH COMMUNITY PARTNERSHIPS, INCORPORATED
(CPI) TO INCREASE CONTRACT AMOUNT BY \$300,165 AND TO
EXTEND CONTRACT TO JUNE 30, 2007**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Amendment to the WIA Contract for Community Partnership, Inc., to add \$300,165 to the contract amount and extend the contract period to June 30, 2007; and

To authorize the City Manager to make changes to the contract before execution, provided that the changes do not increase the dollar amount of the contract and are on terms and conditions not less favorable to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO WIA CONTRACT WITH DURHAM COUNTY
LITERACY COUNCIL, INC. TO INCREASE THE CONTRACT
AMOUNT TO \$149,503 AND TO EXTEND THE CONTRACT END DATE
TO OCTOBER 2, 2006**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Amendment to WIA Contract for Durham County Literacy Council, which will add \$15,000 to the contract amount and extend the contract time to October 2, 2006; and

To authorize the City Manager to make changes to the contract before execution, provided that the changes do not increase the dollar amount of the contract and are on terms and conditions not less favorable to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: AMENDMENT TO WIA CONTRACT FOR DURHAM AREA CORP, INC.
INCREASING CONTRACT AMOUNT TO \$47,700 AND EXTENDING
END DATE TO OCTOBER 2, 2006**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the Amendment to WIA Contract for Durham Area Corp, which will add \$4,500 to the contract amount and extend the contract time to October 2, 2006; and

To authorize the City Manager to make changes to the contract before execution, provided that the changes do not increase the dollar amount of the contract and are on terms and conditions not less favorable to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO WORKFORCE INVESTMENT ACT GRANT
PROJECT ORDINANCE #13151**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending Grant Project Ordinance to add \$2,000 to the 2004-2006 Employment and Training Budget for a total of \$2,146,113 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13285

**SUBJECT: AMENDMENT TO WORKFORCE INVESTMENT ACT GRANT
PROJECT ORDINANCE #13184**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending Grant Project Ordinance to add \$2,000 to the 2004-2006 Employment and Training Budget for a total of \$2,146,113 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #

**SUBJECT: CONTRACT FOR PHYSICIAN SERVICES - RESEARCH TRIANGLE
OCCUPATIONAL HEALTH SERVICES, PA**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Research Triangle Occupational Health Services, PA for a period of one year effective July 1, 2006 at a cost not to exceed \$213,000, with optional annual

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renewals for two additional one-year periods at costs not to exceed \$246,000 in the second year and \$244,000 in the third year; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGY-BACK PURCHASE– ONE 60’ TRAFFIC SIGNAL AERIAL DEVICE BODY - ALTEC INDUSTRIES, INC.

To authorize the City Manager to enter into a contract with Altec Industries, Inc., in the amount of \$92,581 for providing the City with one 60’ Traffic Signal Aerial Device Body; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: By a vote of 7/0, the City Council referred this item back to the administration-- Finance Department--at the request of the City Manager.

SUBJECT: PROPOSED SALE OF PROPERTY AT MANGUM, HUNT AND BROADWAY STREETS - CORE CONSTRUCTION SOUTHEAST, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to declare the 8 parcels as surplus property;

To accept the offer of \$169,900 from Core Construction Southeast, Inc. to purchase the property at Mangum, Hunt and Broadway Streets (Parcel ID #s 104953, 104954, 104955, 104956, 104957, 104958, 104959 and 104960); and

To authorize the City Manager to sell and the Mayor to convey the property by a non-warranty deed was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO THE AGREEMENT FOR LANDSCAPE ARCHITECTURE SERVICES FOR NORTHGATE PARK IMPROVEMENTS WITH CLINE DESIGN ASSOCIATES

MOTION by Council Member Stith seconded by Council Member Catotti to approve the resolution exempting the Northgate Park project from G.S. 143-64.31;

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To authorize the City Manager to negotiate and execute a contract amendment to the Agreement for Landscape Architecture Services for Northgate Park Improvements with Cline Design Associates in an amount not-to-exceed \$111,195 so that the total contract amount will not exceed \$175,850; and

To increase the project contingency to \$17,585; and

To authorize the City Manager to negotiate and execute future contract amendments to the agreement provided the total cost of all changes does not exceed \$17,585 and the total cost of the contract does not exceed \$193,435 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9368

SUBJECT: THIRD AMENDMENT TO CONTRACT FOR MASTER PLAN, DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTATION AND CONSTRUCTION ADMINISTRATION FOR RENOVATING LONG MEADOW PARK - LAPPAS + HAVENER, PA

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to amend the contract between the City and Lappas + Havener, PA for the hourly-not-to exceed amount of \$6,950 for a total contract amount of \$170,920 and to extend the contract for a period of seven months;

To authorize the City Manager to negotiate and execute professional service amendments to the contract, as long as the cost of the amendments does not exceed \$3,000 and the total contract amount does not exceed \$170,920; and

To authorize the manager to modify the contract documents before execution so long as those modifications don't increase the cost or reduce the services to be provided to the City, and are consistent with the intent of the agenda item was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED ACQUISITION OF PROPERTY AT 124 HUNT STREET (PARCEL ID 104946) - JLH INVESTMENTS, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the acquisition of property, land and improvements located at 124 Hunt Street (Parcel ID 104946), property of JLH Investments, Inc. for \$54,000 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) GRANT
PROJECT ORDINANCES SUPERSEDING ORDINANCES #13195 AND
#13198**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending Grant Project Ordinance #13195 to recognize a decrease in actual program income from \$336,001 to \$173,248; and

To adopt an Ordinance Amending Grant Project Ordinance #13198 to recognize a decrease in actual program income from \$220,476 to \$220,432 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13286 - 13287

**SUBJECT: \$52,000 HOME GRANT FUNDS FOR DOWN PAYMENT ASSISTANCE
FOR EASTWAY VILLAGE DEVELOPMENT**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the allocation of \$52,000 in HOME FY 04-05 funding to be used for the Eastway Village Down Payment Assistance program; and

To approve the guidelines for the Eastway Village Down Payment Assistance Program was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: REVISION OF CITY OF DURHAM'S MINIMUM HOUSING CODE

To adopt an Amendment to Article VI of Chapter 6 of the Durham City Code pertaining to the Minimum Housing Code.

Note: This item was referred back to the administration – Housing Department.

**SUBJECT: JANITORIAL SERVICES CONTRACT FOR DURHAM ARMORY - B&R
JANITORIAL**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute contract with B&R Janitorial of Durham, North Carolina in the amount of \$32,175 to perform janitorial services at the Durham Armory; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT AMENDMENT FOR CONTRACT ST-222 STREET IMPROVEMENTS - B & B PAVING COMPANY, INCORPORATED

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to amend Contract ST-222 Street Improvements with B & B Paving Company, Incorporated by \$94,000 for additional work necessary to complete the contract; and

To authorize the expenditure of \$94,000 from the New Dirt/Petition Street Paving Account was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: SUPPLEMENTAL MUNICIPAL AGREEMENTS FOR IMPROVEMENTS ALONG GARRETT ROAD - TROTTERS RIDGE (U-2055C), COLORADO DRIVE (U-2055H) AND SWARTHMORE/MARYDELL (U-2055I) – NCDOT (NORTH CAROLINA DEPARTMENT OF TRANSPORTATION)

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to execute each of the three Supplemental Agreements with NCDOT for Improvements along Garrett Road at Trotters Ridge (U-2055C), Colorado Drive (U-2055H) and Swarthmore/Marydell (U-2055I);

To authorize the City Manager to modify the Supplement agreements before execution, provided the modifications do not increase the dollar amount of the Supplement agreements and the modifications are consistent with the general intent of the version of the Supplement agreements approved by the City Council; and

To authorize an increase in expenditure of \$210,000, thereby increasing the estimated expenditure from \$300,000 to \$510,000 from the City's Transportation Federal and State Match Capital Project Ordinance was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9369 - 9370 - 9371

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**SUBJECT: MUNICIPAL AGREEMENT FOR REALIGNMENT OF RIDDLE ROAD
AT THE INTERSECTION OF FAYETTEVILLE ROAD – NCDOT
(NORTH CAROLINA DEPARTMENT OF TRANSPORTATION)**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to enter into a Municipal Agreement with the NCDOT for the Realignment of Riddle Road at the intersection of Fayetteville Road (WBS Element 30640);

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the version of the agreement approved by the City Council; and

To authorize the expenditure of an estimated \$1,000,000 from the City's Transportation Federal and State Match Capital Project was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9372

**SUBJECT: TRIANGLE REGIONAL MODEL DEVELOPMENT AND SERVICE
AGREEMENT WITH NORTH CAROLINA STATE UNIVERSITY (NCSU)**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution authorizing the City of Durham to enter into a Development/Service Agreement with North Carolina State University in the amount not to exceed \$600,000 during four-year period from July 1, 2007 through June 30 2010 for the development, update and maintenance of the Triangle Regional Model; and

To authorize the City Manager to make changes to the Development/Service Agreement prior to execution as long as the changes do not differ from the original intent of the Agreement was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9373

**SUBJECT: COMPUTER LEASE AGREEMENT AMENDMENT – EPLUS GROUP,
INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a four-year (4) lease agreement amendment with ePlus Group, Inc. for 368 desktop computers, and 23 laptops in the amount of \$92,202 annually for four (4) years, for a total of \$368,809 and \$23,050 for the end of term transition; and

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To authorize the authorize the City Manager to modify the amendment before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the amendment was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-41 – UTILITY EASEMENT MAINTENANCE
MOWING/BUSH HOGGING - NATURCHEM, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with NaturChem, Inc. for Contract SR-41 – Utility Easement Maintenance Mowing/Bush Hogging in the amount of \$171,000; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-42 – UTILITY EASEMENT MAINTENANCE
CLEARING - NATURCHEM, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with NaturChem, Inc. for Contract SR-42 – Utility Easement Maintenance Clearing in the amount of \$38,800;

To establish a contingency fund for Contract SR-42 of \$2,000;

To authorize the City Manager to negotiate change orders for Contract SR-42 provided that the cost of all change orders does not exceed \$2,000 and the total project cost does not exceed \$40,800; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-43 – SANITARY SEWER CLEANING AND
TELEVISION INSPECTION - AUI, LLC**

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MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with AUI, LLC for Contract SR-43 – Sanitary Sewer Cleaning and Television Inspection in the amount of \$279,400;

To establish a contingency fund for Contract SR-43 of \$13,970;

To authorize the City Manager to negotiate change orders for Contract SR-43 provided that the cost of all change orders does not exceed \$13,970.00 and the total project cost does not exceed \$293,370; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT SR-40 – SANITARY SEWER GREASE ABATEMENT - BIO-NOMIC SERVICES, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with Bio-Nomic Services, Inc. for Contract SR-40 – Sanitary Sewer Grease Abatement in the amount of \$103,305;

To establish a contingency fund for Contract SR-40 of \$5,000;

To authorize the City Manager to negotiate change orders for Contract SR-40 provided that the cost of all change orders does not exceed \$5,000 and the total project cost does not exceed \$108,305; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: 2006-07 BENEFITS RECOMMENDATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive a presentation on the 2006-07 Benefits Recommendation; and

To approve the 2006-07 Benefits Recommendation for employees and retirees that will become effective September 1, 2006 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: BRIEFING ON PANDEMIC FLU PREPARATIONS

To receive a briefing on Pandemic Flu Preparations.

Note: This item was deferred to the August 10, 2006 Work Session.

SUBJECT: PROJECT SAFE NEIGHBORHOODS FIRST QUARTER 2006 REPORT

To receive the Project Safe Neighborhoods First Quarter 2006 Report.

Note: A presentation was received at the June 8, 2006 Work Session.

SUBJECT: FAYETTEVILLE STREET SIDEWALK REPAIR PRESENTATION

To receive a presentation on the Fayetteville Street Sidewalk Repair Report.

Note: A presentation was received at the June 8, 2006 Work Session.

SUBJECT: NADINEYVETTE LAFELL

To receive comments from Nadine Yvette LaFell regarding the sale of private property.

Note: Citizen did not appear at the June 8, 2006 Work Session.

SUBJECT: ARCENIA WIGGINS-OWENS

To receive comments from Arcenia Wiggins-Owens regarding civil penalties, minimum housing codes, fair housing codes and HUD rules and regulations on the property at 911, 913 and 915 South Street.

Note: Comments were received at the June 8, 2006 Work Session.

SUBJECT: THE MARVELL EVENT CENTER

To receive comments from Frankie White regarding the Noise Ordinance.

Note: Comments were received at the June 8, 2006 Work Session.

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SUBJECT: EXECUTION OF AGREEMENTS WITH SPRINT NEXTEL

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute Rebanding Agreements with Sprint Nextel was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: ADDENDUM TO DEVELOPMENT AGREEMENT (AMENDMENT #1)
TO PROVIDE BOND FUNDS TO DURHAM CENTRAL PARK, INC. TO
CONSTRUCT PHASE II OF THE DURHAM FARMERS' MARKET
PAVILION AT DURHAM CENTRAL PARK (PARCEL ID 104940 – CITY
TRACT #1934 – FOSTER STREET)**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize disbursement of a grant up to \$322,700 of 2005 Bond Funds to Durham Central Park, Inc. for Phase II Construction of the Farmers' Market Pavilion: \$312,955 for construction and up to \$9,745 for contingency);

To authorize the City Manager to execute the Addendum to Development Agreement (Amendment #1) with Durham Central Park, Inc., and

To authorize the City Manager to make changes prior to execution provided such changes do not increase the amount of the Bond Funds and are consistent with the agenda memorandum was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: GRANT PROJECT ORDINANCE BETWEEN THE DURHAM HUMAN
RELATIONS DEPARTMENT AND THE NORTH CAROLINA HUMAN
RELATIONS COMMISSION**

To authorize the City Manager to accept the North Carolina Human Relations Commission and the Durham Human Relations Department Grant by executing the grant documents; and

To adopt the North Carolina Human Relations Commission and the Durham Human Relations Department Grant Project Ordinance.

**Note: This item was approved at the June 8, 2006 Work Session with a vote of 6/0.
Ordinance #13264**

SUBJECT: N.C. SUDAN DIVESTMENT CAMPAIGN

To receive comments from Kerry Gorman requesting an adoption of a resolution to

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support Sudan divestment; and

To adopt a resolution on Darfur Genocide.

**Note: This item was approved at the June 8, 2006 Work Session with a vote of 6/0.
Resolution #9364**

SUBJECT: JOHNNY C. CARTER

To receive comments from Johnny Carter concerning the unfair treatment from Housing and Community Development and repeated victimization by law enforcement.

Note: Comments were received at the June 8, 2006 Work Session.

**SUBJECT: SUB-LEASING AGREEMENT FOR HISTORIC PARRISH STREET
BETWEEN THE CITY AND THE HISTORIC PRESERVATION
SOCIETY OF DURHAM**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a twenty-one month sub-lease agreement between the City of Durham and the Historic Preservation Society of Durham at a cost of \$19,200, for storefront space at 200 North Mangum Street; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the version of the agreement was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: ACQUISITION OF PROPERTY AT 415 LAKELAND STREET, (PARCEL
119050) FOR THE NC 147 PEDESTRIAN BRIDGE REPLACEMENT**

MOTION by Council Member Stith seconded by Council Member Catotti to approve the acquisition of the property at 415 Lakeland Street (Parcel ID # 119050) for \$43,000 the appraised value was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT - KIMLEY-HORN ASSOCIATES
EDITH/NINTH STREET OUTFALL REPLACEMENT DESIGN
SERVICES**

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MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract amendment with Kimley-Horn Associates, Incorporated for Edith/Ninth Street Outfall Replacement Design Services in an amount of 42,642 for a total project cost not to exceed \$431,242 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: FISCAL YEAR 2006-07 BUDGET MATTERS

To adopt the FY2006-07 City of Durham Budget ordinance, Capital Improvement Plan ordinances and other related ordinances.

City Manager Baker highlighted what the 2006-2007 budget would accomplish.

Budget Analyst Dan Morris informed the Council on how the water and sewer rate increase was established. He noted this year the water and sewer rate increase was a part of the rate model and the rate model this year produced a 5.05% increase. He noted 80% of that increase would be for capital improvements and the other 20% would be in operating. He made comments on new meters that are being put in that will provide efficiencies.

Budget Director Julie Brenman stated the funding being sought in the federal legislative agenda is toward something that is not currently in the budget and it would not impact the water and sewer rate in the proposed 06-07 budget.

Budget Director Julie Brenman noted fee increases related to the 06-07 budget were outlined in Agenda Item #15 – Items 1-5.

Parks and Recreation Director Darryl Crittendon briefed Council on the minor changes to the parks and recreation fees.

Council Member Clement spoke in support of the administration providing a separate listing of all the fee increases.

Council Member Brown asked the administration to comment on what percentage of the tax increase is due to out of control increases in prices particularly medical costs and energy and gasoline costs.

Budget Director Julie Brenman noted most of the increase is related to cost that are beyond the city's control. She noted the city's fuel costs have gone up \$1.3 million and the city's health benefit costs have gone up over \$1 million. She noted the construction costs are not directly in the budget but they are in the city's capital improvement plan and those are rising several percent per month at the present. She noted pay continues to increase at a small rate and the city has a

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pay for performance where employees can get a zero to six percent raise depending on their performance. Ms. Brenman stated much of the funding is for items that were approved in the budget last year that were funded for a partial year. Also, she referenced the declining federal and state funding coming to local governments is contributing to the city's cost increases.

Council Member Clement asked what is the cost to the city regarding the \$110 million bond referendum that was approved in November 2005.

Budget Director Julie Brenman stated the city has not yet issued any of the debt for the 2005 bond, but included in the 06-07 budget is an estimate for the first issuance of roughly \$7 million of the \$110 million and the estimate for the debt payment on that is a little less than \$400,000.

Council Member Brown stated the bulk of the \$110 million bond package approved is for construction and noted construction costs are increasing rather dramatically.

The following citizens spoke on the 2006-2007 budget:

John Lloyd, a resident of Washington Street, expressed concern with the 2 cents property tax increase and the 5.05% water bill increase. He stated he would rather have less service than higher taxes. He asked at least four of the council members to oppose the passage of the budget.

Randy Pickle, a resident of Beverly Drive, voiced concern with the \$60 yard waste fee.

Rev. Frederick Davis, representing First Calvary Baptist Church, spoke in support of inner city programs/causes. He stated the Fayetteville Street project, as well as the Durham Parks and Recreation inner city causes, need the Council's review again. Rev. Davis stated they recently held their family fun day at Hillside Park and they had to cut the grass and spray for fire ants. He asked the Council to continue to provide for all people. Also, he expressed concern with two Juneteenth celebrations held in the City of Durham on June 17th.

Claudette Whitely, a resident of Harvard Avenue, spoke in support of an allocation to be placed in the budget to begin revitalization of neighborhoods on the other side of Alston Avenue in East Durham.

Chris Tiffany, a resident of Lawson Street, voiced concern with litter and poison ivy in city parks and trails.

Denise Hester, representing Fayetteville Street Planning Group, asked the Council to reconsider its 2006-2007 budget allocations by redirecting \$25 million to the Fayetteville Street Corridor.

Larry Hester, representing Fayetteville Street Planning Group, asked the Council to adopt the Fayetteville Street Plan and fund an initial \$25 million in public improvements for the Fayetteville Street Corridor. Also, Mr. Hester referenced a number of businesses located in the Fayetteville Street Corridor.

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Council Member Stith stated over the last five years, the city's budget has grown over 27% while the population has grown just a little over 9%. He noted the citizens of Durham have been impacted over 9% on their property tax rate. Council Member Stith stated contrary to what he has heard this evening and what was discussed in the budget hearings, the City of Durham is the highest tax city in the State of its size; Durham has the highest cost per citizen of a city its size in the State and this budget will increase the water and sewer fees by 5%. He stated the citizens of Durham have not yet seen the impact of the \$110 million bond package that was approved in 2005. Referencing what the solutions are, Mr. Stith stated the city needed to have a standing Finance Committee of Council that works in conjunction with the staff – a Finance Committee that works throughout the year not just only during 3 or 4 days during the year and addressing the city's efficiencies and effectiveness. Council Member Stith stated the citizens of Durham are overtaxed and they want to know where their current dollars are going. Council Member Stith stated he would be voting no the budget ordinance. Also, Council Member Stith stated the real difference will happen when the citizens of Durham start voting no for people who do not represent their interest.

Mayor Pro Tempore Cole-McFadden raised concern about the grass cutting. She asked what department is responsible for this function.

Parks and Recreation Director Darryl Crittendon stated the grass cutting for parks is handled by a contract through the General Services Department.

Mayor Pro Tempore Cole-McFadden asked that the subject of grass cutting be flagged and discussed at a future meeting.

Council Member Brown referenced an article in the News and Observer about one of the city's non-city agencies and asked the City Manager to provide a report in July.

Mayor Bell stated he has not been on the Council as long as some of the others have, but he realizes there were issues when he became Mayor and he could not proclaim that all of the issues have been solved. However, the Mayor stated they have come along way. Mayor Bell stated there has been a lot mentioned tonight about what is happening in downtown Durham and not enough in the neighborhoods and he had some differences with that. He stated that is what Durham is about – people having an opportunity to express their differences. Mayor Bell stated if the record is reviewed, dollars have been invested in neighborhoods/communities and at a future date the City Manager will make a detail report on that. In terms of what is happening in downtown Durham, Mayor Bell stated that has been an investment and he did not know of anyone on the Council who has not supported downtown investment [the American Tobacco Project; the Liggett Project; the Streetscape Improvements]. Mayor Bell stated they have talked about crime in the community and the need for providing adequate police staffing. The Mayor stated the city is pretty much at full staffing in the Police Department. He stated the city has tried to be very aggressive with funding for youth programs in the community as well as trying to get the private sector involved. The Mayor stated for those citizens who may not have followed the details of the budget process, he has not heard one person on the Council make a recommendation specifically as to how to reduce the budget - the proposed tax increase. Mayor Bell stated while tax increases are not favorable by anyone, there are a lot of citizens who do not

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want a number of the things this budget calls for and there are a lot of things people wanted included in the budget that we do not have. Mayor Bell stated this has not been an easy year and you have requests coming from the public which are very valid but you have limited resources.

A motion was made by Council Member Brown to approve the budget items as printed on the agenda. This motion was seconded by Council Member Clement.

Council Member Stith stated he would be voting no on Item A-4 and Item f.

a) Fees

MOTION by Council Member Brown seconded by Council Member Clement to adopt a resolution superseding resolution # 9260 approving Parks and Recreation Fee changes was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9365

MOTION by Council Member Brown seconded by Council Member Clement to adopt an ordinance amending Durham City Code Section 23-47, concerning Credits for City Errors on Water, Sewer and Stormwater bills was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent:

Ordinance #13268

MOTION by Council Member Brown seconded by Council Member Clement to adopt a resolution establishing for Public Works' Review, Inspection and Permitting of Utilities or Lines placed in Public Right-of-Way was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None.

Resolution #9366

MOTION by Council Member Brown seconded by Council Member Clement to adopt an ordinance amending Durham City Code Section 23-41, Monthly Rates for Water Service, Sewer Service and Water and Sewer service was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

Ordinance #13269

MOTION by Council Member Brown seconded by Council Member Clement to adopt an ordinance amending Durham City Code Section 23-40, Deposits and Fees for Water Service was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-

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McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None.
Absent: None.

Ordinance #13270

b) Non-City Agency Contracts

MOTION by Council Member Brown seconded by Council Member Clement to authorize the City Manager to execute Non-City Agency contracts as recommended and to make amendments to the Non-City Agency contracts that do not increase the contract sum was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

FY 07 NCA FUNDING

36 Agencies	Proposed Funding
Achievement Academy of Durham	\$ 5,050
African American Dance Ensemble	\$ 28,500
American Dance Festival	\$ 63,175
Big Brothers Big Sisters of the Triangle	\$ 24,179
Carolina Theatre	\$ 543,096
Center for Documentary Studies	\$ 9,000
Communities in Schools of Durham	\$ 5,000
Downtown Durham, Inc.	\$ 138,048
Downtown Durham Athletic Association	\$ 5,000
Durham Affordable Housing	\$ 69,673
Durham Arts Council	\$ 580,942
Durham Central Park	\$ 5,100
Durham City/County Crimestoppers Program	\$ 27,503
Durham Community Land Trustees	\$ 5,050
Durham Community Penalties Program	\$ 20,282
Durham Companions Mentoring Program	\$ 5,000
Durham Crisis Response Center	\$ 18,335
Durham Literacy Center	\$ 14,393
Durham P.R.O.U.D. Program	\$ 17,418
Durham Striders Track Club	\$ 33,003
Durham Symphony	\$ 17,000

Durham TRY (Center for Community Self Help)	\$ 5,000
El Centro Hispano	\$ 30,900
Full Frame (Doc. Arts)	\$ 43,892
Good Work	\$ 27,830
Historic Preservation Society of Durham	\$ 25,577
Mallarme Chamber Players	\$ 8,550
New Horizons (Training for Success)	\$ 62,079
Project Graduation of Durham	\$ 9,000
Schoolhouse of Wonder	\$ 25,500
Scrap Exchange	\$ 15,360
SeeSaw Studio	\$ 6,800
St. Joseph's Historic Foundation	\$ 292,315
Triangle Residential Options for Substance Abusers	\$ 19,179
Volunteer Center of Greater Durham	\$ 9,351
Walltown Children's Theatre	\$ 19,000
Total NCA funding in FY 06-07	\$ 2,235,080

c) Capital Project Ordinances

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham General Capital Improvements Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13271

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Water and Wastewater Capital Improvements Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13272

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Stormwater Capital Improvements Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-

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McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13288

d) Grant Project Ordinances

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Employment and Training Grant Project Ordinance July 1, 2006 – June 30, 2008 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13273

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and U.S. Environmental Protection Agency Fiscal Year 2006 Brownsfields Assessment Grant Project Ordinance for the Pettigrew Street Corridor was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13274

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and the U.S. Department of Housing and Urban Development Initiative – Special Projects – Fiscal Year 2006 Parrish Street Revitalization Grant Project was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Grant Project Ordinance Fiscal Year 2006-07 Transit Planning and Capital Grants was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13275

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and North Carolina Department of Transportation Section 104(f) and Section 133(b) (3)(7) Transportation Planning Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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Ordinance #13276

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and U.S. Environmental Protection Agency Special Appropriations Projects Grant Project ordinance Fiscal Year 2006-07 for Water Security Improvements was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13277

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13278

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13279

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and U.S. Department of Justice 2005 Bulletproof Vest Partnership Program Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13280

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham and U.S. Department of Justice 2005 Justice Assistance Grant (JAG) Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13281

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Giving Project Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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Ordinance #13282

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Community Collaborative Grant Project Ordinance Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13283

MOTION by Council Member Brown seconded by Council Member Clement to adopt the resolution establishing Financial Plans for Internal Service Funds for Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9367

MOTION by Council Member Brown seconded by Council Member Clement to adopt the City of Durham Budget Ordinance for Fiscal Year 2006-07 was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

Ordinance #13284

SUBJECT: WORKFORCE INVESTMENT ACT CONTRACT FOR \$621,973 WITH GENERAL MANAGEMENT SOLUTIONS, INC. (GMSI) FOR ADULT AND DISLOCATED WORKER SERVICES.

Pat Sturdivant, of Economic and Employment Development, stated she sent an e-mail to the firm noting concern with their employees working on Martin Luther King's Birthday. She stated the firm has changed its policy and it is now a paid holiday for their employees going forward.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole to authorize the City Manager to execute a WIA contract with General Management Solutions, Inc. in the amount of \$621,973; and

To authorize the City Manager to make changes to the contract as may be needed so long as they do not increase the contract amount nor alter the completion date of the contract was approved at 9:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – TWO SEMI-AUTOMATED SIDE-LOADING

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REFUSE COLLECTION VEHICLES – AMICK EQUIPMENT COMPANY, INC.

Budget Director Julie Brenman stated Items 25-28 were placed on the General Business Agenda pending the passage of the budget. She noted they all are included in the budget and are for replacement vehicles and not contingent on new services.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with Amick Equipment Company, Inc., in the amount of \$394,154, for providing the City with two Semi-Automated Side-Loading Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – FOUR REFUSE COLLECTION VEHICLE CAB & CHASSIS – SOUTHERN TRUCK SERVICE, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Southern Truck Service, Inc., in the amount of \$406,684, for providing the City with four Refuse Collection Vehicle Cab & Chassis; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGY-BACK PURCHASE– FOUR REAR LOADING REFUSE COLLECTION BODIES – CAROLINA ENVIRONMENTAL SYSTEMS, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Carolina Environmental Systems, Inc., in the amount of \$230,944 for providing the City with four Rear Loading Refuse Collection Bodies; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:26

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p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGY-BACK PURCHASE– TWO KNUCKLE BOOM LOADER TRUCK BODIES – CAVALIER EQUIPMENT CORPORATION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Cavalier Equipment Corporation., in the amount of \$63,283 for providing the City with two Knuckle Boom Loader Truck Bodies; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED CONDEMNATION OF PROPERTY OF EDNA BARBEE (PIN 0810-13-22-2953) FOR A SANITARY SEWER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENTS TO SERVE WINDSOR COMMONS TOWNHOMES – WHITE OAK PROPERTIES, INC.

To adopt a resolution authorizing condemnation of property for a sanitary sewer easement and two temporary construction easements on property of Edna Barbee (PIN 0810-13-22-2953);

To authorize White Oak Properties, Inc. to settle the condemnation action by payment from its funds of whatever additional sum that White Oak Properties, Inc. finds to be satisfactory on terms and conditions acceptable to White Oak Properties, Inc. and the City Manager in consultation with the City Attorney, provided all monies are paid by White Oak Properties, Inc.; and

To authorize the City Manager to execute the Agreement with White Oak Properties, Inc. and the City of Durham on Payment of Eminent Domain Expenses, and prior to execution, authorize the City Manager to make changes to such Agreement, provided such changes are consistent with the general intent of the agenda memo.

Note: Earlier in the meeting, the City Manager requested that this item be referred back to the administration.

SUBJECT: MUNICIPAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR DIRECTIONAL CROSSOVER ON NC 54 AT SR 1264 (CELESTE CIRCLE) AND INSTALLATION OF TRAFFIC SIGNAL AT NC 54 AND HUNTINGRIDGE ROAD (PROJECT WBS ELEMENT 36935)

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Mark Ahrendsen, of the Transportation Division, stated they sent letters to the Celeste Circle residents informing them of this item being on the agenda this evening and the city's plans to restrict movement at Falconbridge and NC 54 and to install a signal at Huntingridge Road, Celeste and NC 54. He noted they had not received any feedback or concerns from the residents.

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to enter into an agreement with the N.C. Department of Transportation for the installation of a directional crossover on NC 54 at SR 1264 (Celeste Circle) and the installation of a traffic signal at NC 54 and Huntingridge Road (WBS Element 36935);

To authorize the City Manager to modify the agreement before execution, provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the version of the agreement approved by the City Council; and

To authorize the expenditure of an estimated \$90,000 from the City's Transportation Federal and State Match Capital Project Ordinance was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9374

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: ROWENA AVENUE – FROM NORTH PROPERTY LINE OF TAX MAP 370-2-2 TO NORTH PROPERTY LINE OF TAX MAP 367-3-3- MINI ASSESSMENT ROLL

a. Property of Jon P. Briggs

To find that the property of Jon P. Briggs, identified as 3205 Rowena Avenue, PIN #0840-05-28-0641, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To find that the property of Jon P. Briggs, identified as 3203 Rowena Avenue, PIN #0840-05-28-0626, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To find that the property of Jon P. Briggs, identified as 3137 Rowena Avenue, PIN #0840-05-28-2985, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

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To find that the property of Jon P. Briggs, identified as 3135 Rowena Avenue, PIN #0840-05-18-9880, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,283.

b. Property of Brian K. Ross

To reconsider the assessment against the property of Brian K. Ross, identified as 3209 Rowena Avenue, PIN #0840-05-28-0561, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

c. Property of Milton Moore

To reconsider the assessment against the property of Milton Moore, identified as 3211 Rowena Avenue, PIN #0840-05-28-0476 and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To reconsider the assessment against the property of Milton Moore identified as 3201 Rowena Avenue, PIN #0840-05-28-0710, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

d. Property of Micole Enterprises, LLC

To reconsider the assessment against the property of Micole Enterprises, LLC, identified as 3131 Rowena Avenue, PIN #0840-05-18-9955, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To reconsider the assessment against the property of Micole Enterprises, LLC, identified as 3129 Rowena Avenue, PIN #0840-05-19-9040, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,057.

Assistant Public Work Director Lee Murphy stated this is an assessment roll for improvements that have already been completed and properties have benefited. He recommended approval of the items as printed on the agenda.

Mayor Bell opened the public hearing.

Pernell Briggs stated he owned four properties on Rowena Avenue that are being impacted by this assessment. He expressed concern about the assessment process. He noted in order to benefit from the assessment there must be a benchmark.

Assistant Public Works Director Lee Murphy stated the properties have benefited and are connected to the sewer line.

Pernell Briggs stated he was not the person who should be paying the assessment. He raised concern with the way the assessment was handled by the city and the closing attorney. He stated the city had the money to pay the assessment but they returned it and that was negligence.

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Assistant Public Works Director Lee Murphy stated noted the objection is centered around the property owner who purchased the property after the improvement was ordered and prior to the confirmation of the assessment role. He noted the buyer, seller and closing attorney all at full knowledge of the pending assessment [assessment had not be levied at the time]. He noted the issue is between the buyer, seller and the closing attorney. Mr. Murphy stated the assessment goes with the property not the owner.

Again, Mr. Pernell stated it was his understanding that the attorney sent the funds that was escrowed for the property to the city for this assessment and because the city was not set up to accept the money at that particular time, it was returned. He asked if this was routine, this was negligence on the city part and he should not be penalized for having to pay this money. He stated the city should be paid but they should take this matter up with someone else.

Milton Moore also expressed concern about the assessment.

Council Member Stith asked that this item be held over and requested the administration to look into this matter and see what happened [where are the funds that were sent by the attorney].

MOTION by Council Member Woodard seconded by Council Member Stith to continue the public hearing without further advertisement on this item until the August 7, 2006 City Council Meeting was approved at 9:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JANUARY 1, 2006 – GREENFIELD, ELLINGTON PLACE AND STATE EMPLOYEES CREDIT UNION EAST DURHAM

Julie Brenman, Budget Director, made comments on the three voluntary annexations noting they will present a net positive cost benefit to the city once annexed. She also made available for adoption the ordinance for the State Employees Credit Union-East Durham.

Mayor Bell opened the public hearing.

Larry Vinson, representing the State Employees Credit Union, noted he was available to answer questions.

No one spoke in opposition to the annexation requests. The public hearing was closed by the Mayor.

a) FY 2006-07 Greenfield

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MOTION by Council Member Clement seconded by Council Member Catotti to receive citizens' comments concerning the annexation of the Voluntary Annexation Area for "Greenfield"; and

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area "Greenfield" in accordance with N.C. General Statutes 160A-58, effective from and after June 30, 2006; and

To authorize the City Manager to modify an existing half-base contract with the Bethesda VFD to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas in such contracts was approved at 9:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13265

b) FY2006-09 Ellington Place

MOTION by Council Member Clement seconded by Council Member Catotti to receive citizens' comments concerning the Voluntary Annexation Area of "Ellington Place"; and

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area "Ellington Place" in accordance with N.C. General Statutes 160A-58, effective from and after June 30, 2006; and

To authorize the City Manager to modify an existing half-base contract with the Bethesda VFD to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas in such contracts was approved at 9:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13266

c) FY2006-12 State Employees Credit Union – East Durham

MOTION by Council Member Clement seconded by Council Member Catotti to receive citizens' comments concerning the Voluntary Annexation Area of "State Employees Credit Union – East Durham"; and

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area "State Employees Credit Union-East Durham" in accordance with N.C. General Statutes 160A-58, effective from and after June 30, 2006; and

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To authorize the City Manager to pay the debt service of the Redwood VFD was approved at 9:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13267

SUBJECT: ZONING MAP CHANGE – ERWIN OIL US 70 (Z06-14)

Note: This item was referred back to the Administration – Planning Department

SUBJECT: ZONING MAP CHANGE – THE CLOISTERS AT AUBURN (Z06-20)

Note: This item was referred back to the Administration – Planning Department

SUBJECT: ZONING MAP CHANGE – BRIGHTLEAF SCHOOL (Z06-36)

Note: This item was referred back to the Administration – Planning Department

SUBJECT: ZONING MAP CHANGE – HARMONY ROAD II (Z05-32) – NORTH AND SOUTH OF HARMONY ROAD BETWEEN STURBRIDGE DRIVE, KETTERING DRIVE AND COOK ROAD – APPLICANT TAH, LLC

To receive public comments on the zoning map change for Harmony Road II (Z05-32);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z05-32 out of RS-20 and RS-10 and placing same in and establishing same as PDR 2.710; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

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Planning Commission Recommendation and Vote: Approval, 8-5 on April 11, 2005. The Planning Commission recommends approval based on finding that the request is consistent with the adopted Comprehensive Plan, and considering the information in the staff report and comments received during the public hearing.

Note: Valid Protest Petition filed against this zoning map change.

City/County Planning Director Frank Duke stated this is a PDR request and a development plan is associated with this request which illustrates the conceptual layout for the project. He noted it also included a number of committed elements [on page 3 of the staff report] – which include the maximum number of units will be 203, minimum single family lot will be 8,000 square feet and they have committed to the grading of the site will occur in at least three phases so that the entire site will not be mass graded at one time. He stated they are providing for a 50 foot undisturbed perimeter buffer as shown on sheet C-2 of the development plan including fencing along the rear property line and a 5 foot mulch trail as well any required infrastructure that would need to go through the easement. Mr. Duke stated they will also include provisions to provide sedimentation and erosion controls at higher levels than are required by Durham ordinances consistent with the some of the recommendations in the N. C. State Design Manual; the provision of a 6-foot north-south asphalt trail from the sidewalks along the street down to the city's proposed greenway trail immediately south of Morningside Drive; the developer will provide one pocket park used to be located in the southeast portion of the development; provide at least one centrally located children's play area in the area now shown as lots 72 and 73 shown on sheet C-2 of the development plan that include not less than 7,200 square feet containing specific equipment including basketball hoop and tot lot equipment; commitments to build the offsite portions of Harmony Road shown on development plan as well as to do road improvements on Cook Road and to provide traffic calming devices as approved by the City of Durham just north of the Morningside Drive cul-de-sac at the entrance to the Harmony Road Project; and finally to do the grading and construction of all streets prior to doing any grading of any lots unless it is required to do that additional grading in lots in order to build the streets.

Mr. Duke stated the request as submitted does conform to all the requirements of the UDO and of the zoning ordinance submitted for a PDR and considered compatible with the existing development within area. He noted the request is also consistent with all ordinances regarding the environmental requirements and is consistent with the Durham Comprehensive Plan. Mr. Duke stated the staff is recommending approval of this request and stated the Planning Commission recommended approval by a vote of 8/5. Also, Mr. Duke stated he had all the required certifications that all notices were sent out on this case as well as all other zoning cases before the council this evening.

Mayor Bell opened the public hearing.

Proponents

Attorney Ken Spaulding, representing the applicant, stated the developer is seeking to develop 75 acres into single-family low density residential. He noted the developer has met with the residents on numerous occasions in an effort to explain the development, modify the

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development and to seek a consensus on the development after significant changes have been made. Attorney Spaulding made comments on a meeting held on May 17th with the residents where they congratulated the developer for addressing their concerns and in particular in reducing the number of lots from 203 units to 185 units yielding 2.4 units per acre. He made comments on amenities being provided that respect the environment, providing very sizeable community open space, curb streets, sidewalks and pedestrian trails, providing 100 feet of greenway easement, a 50 foot undisturbed perimeter buffer, a pocket park, a centrally located children's play area not less than 7,200 square feet containing a basketball hoop, a tot lot with swings, climbing apparatus, benches, picnic tables, providing 22 percent of tree coverage and the inclusion of a 5 foot wide mulch trail. Attorney Spaulding asked the council to approve the request.

Ellen Beckman, a resident of Morningside Drive, spoke in support of the rezoning and made comments on the PDR and the committed elements.

Regina DeLacy, a resident of Carlton Crossing Drive, spoke in support of the request due to the reduced density and the 50 foot undisturbed tree perimeter buffer and additional environmental safeguards and other committed elements. She noted the Hope Valley Farms Association Board has withdrawn their protest from the Harmony Road II plan.

Beth O'Brien, resident of Leeward, spoke in support of the request due to the newest committed elements offered by the developer and reduction in density.

Mike Cashion, a resident of Fox Trail, spoke in support of the request due to the newest committed elements being offered by the developer.

George Stanziale, representing the developer, noted there is a protest petition representing 81 lots signing the petition; however, 41 have been removed. Mr. Stanziale made a power point presentation on the committed elements and noted the following additional committed elements being proffered this evening:

- There shall be a maximum of 185 units.
- No lots shall be platted within the 50 foot undisturbed perimeter buffer.
- Minimum 16.58 ac (22.1%) tree coverage.
- Provide chain link fence around perimeter of detention ponds.
- Provide up to \$50,000 toward the completion of the sidewalk for the entrance to Harmony Road down to Southwest Elementary School.
- Install two speed humps per City of Durham Standards on Morningside Drive prior to the issuance of the 61st building permit.

Opponents

Ken Hreschak, a resident of Leeward Court, spoke in opposition to the request due to density, the possibility of the developer selling the land once the rezoning is secured, traffic concerns, storm water concerns and the overcrowding of the Southwest Durham schools.

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Bill Watkins, a resident of Tall Oaks Drive, spoke in support of R-20 zoning for the project and requested that the number of homes be reduced and he expressed concern regarding traffic increasing on Woodcroft streets impacting safety.

Jennifer Durand-Smith, a resident of Gablefield Lane, expressed concern with rezoning to higher density, stormwater runoff and increase in traffic.

Ethan Fricklas, a resident of Shade Ridge Court, expressed concern with impact on school system this project would have, noted concern with the 185 homes and traffic on existing roads.

Deborah Barreau, a resident of Fortunes Ridge Drive, expressed concern with the density and traffic.

Marie Slater, a resident of Woodcroft, noted the revised plan looked much better than the one presented in 2004. She stated there is discussion about a 50 foot undisturbed buffer; however, she wanted council to know that the developer was not giving them 50 feet. She stated 25 feet already belongs to them. Ms. Slater made comments on a new development being constructed on Cook Road "Crestfield Homes" with a total of 34 homes which will also have an additional impact on the schools and traffic. She stated she would like to see the density reduced and the developer provide stormwater best management practices that produce stormwater quality consistent with the standards currently proposed for the Lake Jordon watershed.

Comments by Council

Council Member Woodard asked about the minimum 16.58 acreage of tree coverage and stated he did not see that as a committed element.

George Stanziale, representing the developer, stated it was a committed element.

Council Member Woodard asked if the developer is committing a 50 foot buffer or is 25 feet already there.

George Stanziale, representing the developer, stated there is a minimum 50 foot buffer around the entire project. He noted there is an additional 25 feet of buffer on the Woodcroft side that exists. He stated Woodcroft is essentially getting 75 feet.

Planning Director Frank Duke noted it has been stated twice that there will be 50 foot undisturbed perimeter buffer around the entire project. He stated on the developer's sheet it indicates only as located in areas shown on C-2.

George Stanziale replied that is correct. He noted there is 25 feet on the Woodcroft side and an additional 50 feet north of the Woodcroft property line on their property.

Council Member Catotti asked about latest plan for committed element #7 - the 6 foot north-south asphalt trail.

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George Stanziale made comments on a portion of the trail not being proffered. He noted some of the residents did not want a trail in their backyards.

Council Member Catotti stated she wanted to make certain that the things illustrated in the plan are actual committed elements.

George Stanziale stated they will proffer that 75% of the homeowners along the southern property line – if they would like to have a trail they will build a trail.

Director Frank Duke stated he is assuming the applicant is committing to circulate a petition to property owners to ascertain their willingness to have a trail built if 75% of the affected property owners concur - the developer will commit to such a trail prior to the 61st building permit.

At this time Planning Director Frank Duke read the following language that was provided to him by Mr. Stanziale's office: Circulate a petition among property owners along Morningside Drive and if sufficient signatures are obtained [75% of affected property owners] – install speed humps per City of Durham standards on Morningside Drive prior to the issuance of 61st building permit.

Planning Director Frank Duke made comments on the plan the council was being asked to vote on this evening.

Planning Director Frank Duke stated the applicant could commit to stating they would be doing no grading in the areas shown on the conceptual or illustrative master plan dated May 15th in the southwestern and western portions of the site.

Council Member Catotti offered the following language: The applicant would commit to no grading in the areas in the southwestern/western portion site as illustrated on the conceptual illustrative master plan accept to accommodate stormwater.

Wesley Parham, of the Transportation Division, addressed the traffic flow. He stated based on the estimates you will see approximately 30% of the traffic generated by the site going in and out Morningside and the other 70% directly accessing the road from Cook Road.

George Stanziale addressed traffic mitigation and environmental controls.

Planning Director Frank Duke stated that the committed elements become part of the zoning requirements for the property and any subsequent owner would be required to comply and the only way they would be able to not comply is if another regulatory agency such as the State would not allow any developer to do something that has been committed as a committed element. He also made comments on the current right-of-way for Harmony Road needing to be closed because the applicant does not control the right-of-way. Mr. Duke made comments on what R-20 would allow vs. what the proposed PDR would allow.

Council Member Brown stated this was not a perfect plan but he is pleased the density was lowered to 185.

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Planning Director Frank Duke asked Mr. Stanziale if what they were showing as committed element #14 [185 units] actually replaces committed element #1 in the staff report.

Mr. Stanziale replied that is correct.

Planning Director Frank Duke asked Mr. Stanziale if what they are showing as committed element #15 [no lots shall be platted within the 50 foot undisturbed perimeter buffer where shown on sheet C-2] of the development plan – if this was in addition to what they have as committed element #4 previously which did establish the 50 foot undisturbed perimeter area for fencing along the rear property line of the proposed lots. Mr. Duke stated he was not sure how that portion of this still complies. He noted this would have to be deleted from committed element #4 the provision for fencing along the rear property lines.

Mr. Duke stated what is being shown as committed element #16 dealing with the increased tree coverage of 16.58 acres is clear as is committed element #17 which deals with the chain link fence and committed #18 which provides \$50,000 in either cash, labor or materials at the discretion of the city for off site sidewalk improvements along Cook Road.

Mr. Stanziale stated that is clear.

Mr. Duke asked Mr. Stanziale to confirm what he has for the language for committed element #19 [the applicant will circulate a petition among property owners along Morningside Drive and if sufficient signatures are obtained - 75% of the affected property owners – install speed humps per City of Durham standards on Morningside Drive prior to the issuance of the 61st building permit.

Mr. Stanziale replied that is correct.

Mr. Duke stated the next committed element would be to circulate a petition for the property owners in the area south of lots 56-67 as shown on sheet C-2 of the development and if 75% of the affected property owners sign, develop a mulch trail in the area along the southern perimeter of the project as shown in conceptual illustrative master plan dated May 15, 2006.

Mr. Stanziale replied that is correct.

Finally, Mr. Duke stated the applicant will do no grading in the southwestern and western area of the site as shown on conceptual illustrative master plan dated May 15, 2006 except as required for stormwater controls and recreational facilities such as trails or similar facilities.

Mr. Stanziale replied that is correct.

For clarification Mr. Stanziale referenced committed element #11 stating at the Planning Commission they were asked to provide a park down in the lower portion of the site lots 72 and 73 which they committed to. He noted with the new plan they are moving the park and recreation into the central part of the project.

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Mr. Duke noted therefore we need to strike lots 72 and 73 and refer to it as providing a centrally located children's play area not less than 7,200 square feet.

Mr. Stanziale replied correct.

Council Member Catotti asked the Planning Director if there was anything else on the conceptual illustrative master plan that is not reflected in the new development.

Mr. Duke stated there was nothing he was aware at this point that is now not committed from the conceptual illustrative master plan. He did note access points between some of the lots that are outside of their zoning but have to be provided with vehicular access by ordinance. He stated he did not think the council should try to solve this matter at this time.

Wesley Parham, of the Transportation Division, briefed the council on the traffic calming measures that are already in place for the plan. He stated there is a traffic signal for Cook and MLK that is scheduled to be installed later this year and two speed humps in the upcoming contract to be installed on Tall Oak Drive by this fall.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on the zoning map change for Harmony Road II (Z05-32); and

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z05-32 out of RS-20 and RS-10 and placing same in and establishing same as PDR 2.710; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ZONING MAP CHANGE - 900 DAVIDSON AVENUE (Z06-05)

Note: This item was referred back to the Administration – Planning Department

SUBJECT: ZONING MAP CHANGE – STATE EMPLOYEES CREDIT UNION (Z06-03) LOCATED AT 2121 GUESS ROAD

To receive public comments on the zoning map change for State Employees Credit Union (Z06-03);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-03 out of RS-20 and placing same in and establishing same as OI(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 10-2 on April 11, 2006. The Planning Commission recommends approval based on finding that the ordinance request is consistent with the adopted Comprehensive Plan, and considering the information in the staff report and comments received during the public hearing.

Planning Director Frank Duke stated the location of this request. He noted the request is compatible with the adjoining uses in the area and consistent with the Comprehensive Plan. He stated the staff is recommendation approval of the request.

Mayor Bell opened the public hearing.

Proponents

Larry Vinson, representing the State Employees Credit Union, spoke in support of this item.

Sam Brockwell spoke in support of this item. He stated the landscaping would exceed ordinance requirements.

Council Member Woodard referenced the Planning Commission meeting and the request for a stub-out and asked if this was a committed element.

Planning Director Frank Duke stated that cannot be done. He stated the development plan as shown did not include any provision for a stub-out and in order to provide that it would be considered a significant change to the plan which would require a redesign of the development plan and a new hearing before the Planning Commission.

Opponents

Joey McNeil Owens spoke in opposition to the request at the proposed location. She stated the proposed credit union should move to a larger property already zoned commercial. She stated if

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the rezoning is approved there should be committed elements to protect the intermittent stream. Also, she made reference to the State Employees Credit Union that already exists on Ben Franklin Boulevard and the number of parking spaces [65] being proposed at the new location if the rezoning is granted.

Rebuttal

Mr. Brockwell stated they have to plant trees in the stream buffer. He also spoke on water quality.

Mayor Bell closed the public hearing.

Planning Director Frank Duke stated in Mr. Brockwell's presentation he made the statement that the landscaping would exceed ordinance requirements. He noted this would have to be made as a committed element.

Sam Brockwell stated they would have trees and plant materials.

Planning Director Frank Duke stated the only way to do it is to make a committed element that the applicant would exceed ordinance requirements with regard to caliber of trees and plant material in the required buffers.

Council Member Brown stated the 65 parking spaces seemed excessive.

Larry Vinson stated as a general rule this is the typical number of parking spaces they have been accommodating on previous sites. He spoke on the times when there are excessive number of customers/members visiting the facilities. He noted their objective is to make certain they have adequate parking for their customers. Mr. Vinson stated the credit unions take great pride in their facilities and they have been extremely well landscaped.

Council Member Brown disclosed that he was a member of the state employees credit union.

Council Member Woodard asked if the credit union would be willing to use permeable material for the 35 parking spaces that are beyond the ordinance requirement.

Larry Vinson stated this question came up at the Planning Commission meeting and he could not commit to that. However, he stated they have discussed this matter. Mr. Vinson stated they were afraid if they did not use a smooth surface that would create the potential for liability.

Planning Director Frank Duke stated by ordinance it does not matter whether it is permeable material or impervious surface – it is all treated as impervious surface.

Planning Director Frank Duke noted the applicant will be required to provide a stream buffer as shown on sheet SD1 of the development plan. He stated the plan met all ordinance requirements relating to environmental protection.

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MOTION by Council Member Stith seconded by Council Member Clement to adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-03 out of RS-20 and placing same in and establishing same as OI(D); and

To adopt as support for its action on the proposed zoning map change the determination that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompany agenda materials was approved at 11:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT –
SEDIMENTATION AND EROSION CONTROL REVISION (TC06-05)**

Planning Director Frank Duke stated this item is a requirement of the City and County due to recent changes in state law. He noted the changes mandates that the City and County revise the sedimentation and erosion control provision of the UDO as shown and to be in effect by July 1, 2006.

Mayor Bell opened the public hearing. No one spoke on this item. The public hearing was declared closed.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the Unified Development Ordinance (UDO) Text Amendment; and

To adopt an ordinance approving the text amendment TC06-05 to the Unified Development Ordinance that incorporates Sedimentation and Erosion Control Revisions into the Unified Development Ordinance was approved at 11:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Member Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13289

**SUBJECT: MERCHANDISE-BASED RETAIL INCENTIVE PROGRAM
REIMBURSEMENT – RISTORANTE PIEMONTE, LLC - FOSTER
STREET**

Trisha Gensic, of the Office of Economic and Employment Development, noted this item was a \$7,500 merchandise based incentive program leveraging \$245,000 investment in the downtown area at 401 B-1 Foster Street.

Mayor Bell opened the public hearing. No one spoke on this item. The public hearing was declared closed.

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MOTION by Council Member Clement seconded by Council Member Woodard to receive public comments on the Merchandise-Based Retail Incentive Program Reimbursement;

To authorize the City Manager to execute a reimbursement contract with Ristorante Piemonte, LLC in an amount not to exceed \$7,500; and

To authorize the City Manager to make changes as may be needed as long as they do not increase the dollar amount of the contract nor alter the contract completion date was approved at 11:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[SUPPLEMENTAL ITEMS]

**SUBJECT: BOARD OF DIRECTORS OF DOWNTOWN DURHAM, INC.
REAPPOINTMENT**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to re-appoint Council Member Diane Catotti to the Downtown Durham, Inc. Board of Directors for July 1, 2006 to June 30, 2007 was approved at 11:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: URBAN ENVIRONMENTAL ACCORDS RESOLUTION

MOTION Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a resolution in support of the Urban Environmental Accords was approved at 11:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9375

**SUBJECT: CONTRACT AMENDMENT – EXTENSION OF THE UNIFIED
DEVELOPMENT ORDINANCE (UDO) CONTRACT TO ALLOW FOR
DEVELOPMENT OF AN INTERACTIVE ON-LINE ORDINANCE**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to extend the Unified Development Ordinance contract through June 2007 was approved at 11:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: C. M. HERNDON PARK – PERIMETER DEVELOPERS, LLC

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with Perimeter Developers, LLC for contract WS-80, a gravity sewer main from the County pump station on Scott King Road to the west side of the intersection with Herndon Road in the amount of \$150,000 was approved at 11:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM PERFORMING ARTS CENTER AGREEMENTS – JN AMERICA, LLC, PROFESSIONAL FACILITIES MANAGEMENT, LLC, ACPA LLC AND SKANSKA USA BUILDING, INC.

Alan DeLisle, Director of Economic and Employment Development, noted the project definition is a 2,800 seat performance theater which will provide Broadway shows, concerts and family shows as well. He noted the location is the DATA site; they have worked through a number of environmental issues; utilities issues and are now dealing with the railroad issue. Mr. DeLisle stated the city switched contractors recently from Turner Construction to Skanska USA. He stated Skanska has been working very hard reviewing the cost estimates for the project – they have done a full analysis and it is estimated that the current project is approximately \$44,000,000. Mr. DeLisle stated clearly they do not like the fact the costs have increased; however, they are dealing with what everyone is dealing with across the country which is escalating construction costs.

Mr. DeLisle stated they have also been working hard looking at the project funding plan and have put forward a recommendation that would fund \$41 million of the \$44 million. He stated they are having discussions with their other stakeholders/partners and expect to come back before the City Council in August with the rest of the funding plan. Mr. DeLisle stated they have dedicated funding for the project based on this plan from the occupancy tax and dedicated funding from the project itself from the facility fee which is \$1.50 from each ticket sold with a proposal that those revenues go back into the project to pay for its construction at least until naming rights are secured. He stated they also have a dedicated downtown fund for downtown revitalization projects. He referenced an analysis has determined they have the ability to finance \$200,000 additionally out of the downtown fund which will help close that gap of \$41,000,000.

Mr. DeLisle stated the dedicated total outside funding to date is \$34,000,000 for the project; the dedicated facility fee revenue is \$3.9 million; the dedicated downtown fund would be \$2.6 million; the sell of the data site per the American Tobacco agreement would generate approximately \$500,000 for a total of \$41,000,000.

Mr. DeLisle stated Mark Greenspan, the General Services Director, was present to speak about the construction manager at risk process. He stated the American Dance Festival is currently discussing with the operator the use of the facility and they do not have the agreement in place yet.

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Mr. DeLisle stated the administration is requesting Council to approve the operating agreement, development agreement, approve the pre-construction contracts, approve two ordinance amendments [one would allow the DPAC to serve alcohol during certain times and the other would allow a vendor free zone much like the baseball stadium at certain times].

Mr. DeLisle stated there has been much discussion about the railroad timesheet and asked Council to allow the administration to continue discussions and negotiations with the railroad keeping the Council informed and hopefully come back with a resolution to that issue. Again, Mr. DeLisle stated the administration will bring to Council in August a construction manager at risk contract and a guaranteed maximum price along with a final funding plan.

Referencing the downtown fund analysis, Council Member Woodard asked how did the administration find an additional \$200,000.

Finance Director Ken Pennoyer stated initially when they made the cash flow estimates for the downtown fund they did not include any of the later phases of the American Tobacco – they only included the guaranteed phases [Phases I and IA]. He noted this means the incremental increase in tax value – the taxes equivalent of which were transferred to the downtown fund were purposely kept very conservative. He stated now that American Tobacco is into later phases they are starting to add those incremental dollar amounts back into the downtown fund as taxable estimates. Also, he stated in the original cash flow estimates they did not include any interest earnings funds that have accumulated in the downtown fund. Mr. Pennoyer stated most recently in trying to fill the gap between what the project costs were and the project funding, they did recognize two pieces of revenue that had not been recognized previously [one is the estimated special events parking revenues from the east deck which were not recognized previously and \$100,000 is recognized now for revenue stream – in addition the ticket surcharge was not recognized in earlier calculations which is another \$100,000].

Council Member Woodard asked if there were other things the council did not know about.

Finance Director Ken Pennoyer stated there is one revenue flow that is not included in the project itself and that is the 40% of the net revenues of the theater itself. He noted they have included that in the cash flow calculations.

Discussion was held on the additional \$200,000 found; the pre-operating budget; exempting theater from G. S. 143.64.31; Skanska Company and 38% cost increase for the theater; \$3 million gap; term sheet between City and North Carolina Railroad; and the need for access to the northwest corner of the theater;

For clarification, General Services Director Mark Greenspan stated the administration will bring to Council on August 7th a construction manager at risk agreement. He noted the agreement will say the construction manager will present a guaranteed maximum price. He noted that presentation will take place in the middle of the month and there will not be time to come back to Council for approval unless there is a special meeting. He stated they will be asking for authority to proceed if the guaranteed maximum price equals the project budget as approved by the City Council.

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Alan DeLisle stated they have had some discussions with the railroad and would prefer council to amend the motion allowing the administration to continue discussions with the railroad to continue to explore different options.

The following citizens spoke in support of the item: Representing Downtown Durham, Inc. John Warasila and Representing the Greater Durham Chamber of Commerce Libby Barnes.

Mayor Bell spoke in support of the Council moving forward with this item and recommended the administration continue discussions with the railroad.

Council Member Stith raised concern that the Council is being asked to suspend the laws on one hand; pulling funds from designated accounts; using general funds based on the budget approval earlier; the tax increase that was recently approved and the \$3 million gap for the theater.

At this time City Attorney Blinder stated the revised motion concerning the railroad would be to authorize the City Manager to negotiate, with Council approval, terms with the North Carolina Railroad.

A request was made to sever each motion.

Alan DeLisle stated they are having discussions with the operator and the operator has accepted the inclusion of remedies associated with the SDBE provisions.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the DPAC Operating Agreement by and between The City of Durham, North Carolina and JN AMERICA, LLC, a New York Limited Liability Company and Professional Facilities Management, LLC, a Rhode Island Limited Liability Company was approved at 12:58 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a Development Agreement between the City and ACPA, LLC, a North Carolina Limited Liability Company was approved at 12:58 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution Exempting the Durham Performing Arts Center Project from G.S. 143-64.31 was approved at 12:59 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

Resolution #9376

June 19, 2006

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a pre-construction services agreement between the City and Skanska USA Building, Inc. - compensates Shanska in the amount of \$87,000 for pre-construction services was approved at 12:59 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a pre-construction services agreement between the City and Skanska USA Building, Inc.- provides for additional compensation in the amount of \$23,000 in the event that the project funding is not approved and the project does not move forward was approved at 12:59 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to negotiate, with Council approval, terms with the North Carolina Rail Road was approved at 1:00 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending City Ordinance Chapter 17, Article III, Division 3, Section 68 [to restrict sales on street right-of-way near the Durham Performing Arts Center] was approved at 1:00 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13290

MOTION by Council Member Woodard seconded by Council Member Brown to adopt an Ordinance Amending City Ordinance Chapter 12, Article I, Section 16 [to allow alcoholic beverages in the Durham Performing Arts Center] was approved at 1:01 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Woodard. Noes: Council Members Clement and Stith. Absent: None.

Ordinance #13291

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to make changes to the contracts prior to execution provided the changes do not increase the compensation to be paid by the City and do not decrease the services to be provided to the City was approved at 1:01 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WEST VILLAGE II REDEVELOPMENT - AMENDMENT TO

June 19, 2006

AGREEMENT WITH BLUE DEVIL VENTURES

MOTION by Council Member Clement seconded by Council Member Woodard to authorize the City Manager to execute an Amendment to the West Village II Agreement with Blue Devil Ventures in a form substantially similar to the Amendment attached as Exhibit A; and

To authorize the City Manager to execute other documents needed to satisfy HUD requirements for funding, including further amendments, as long as they do not increase the monies to be spent or decrease the benefits to accrue to the City under the West Village II, Streetscape Construction and Economic Development Incentives was approved at 1:02 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: DURHAM AREA TRANSIT AUTHORITY BOARD APPOINTMENT

Council Member Clement stated he was very disappointed in what the Council did with respect to Susan Breed's appointment to serve on the DATA Board.

MOTION by Council Member Clement seconded by Council Member Stith to discuss the Durham Area Transit Authority Board Appointment was approved at 1:03 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

City Manager Baker reminded the Council of the swearing in ceremony for Fire Chief Bruce Pagan being held on Tuesday, June 20, 2006 at 6:00 p.m. in the Council Chambers.

There being no further business to come before the City Council, the meeting was adjourned at 1:04 a.m.

Linda Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk